

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

UNITED STATES OF AMERICA,)	CR NO. 2:05-1323
)	
-vs-)	
)	<u>O R D E R</u>
DANIELLE BLAKE,)	
)	
Defendant.)	
)	

This matter is before this court pursuant to defendant's letter to the court about the effect that United States of America v. Simmons, 649 F.3d 237 (2011) would have on his sentence. The court construes this letter to be a motion to reduce sentence.

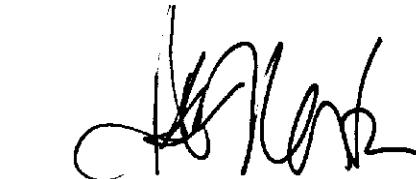
On September 25, 2006, defendant ("Blake") pled guilty to aiding and abetting another in the use of a firearm during and in relation to a drug trafficking crime, a violation of Title 18, United States Code, Sections 2 and 924(c)(1)(A)(iii). On January 4, 2007, Blake was sentenced to three hundred months, followed by 5 years supervised release. Daniels appealed and the Fourth Circuit affirmed his sentence on July 23, 2008.

In Simmons, the Fourth Circuit clarified what constitutes a "felony" under federal criminal law, ruling that only convictions for which the defendant could have actually been sentenced to imprisonment for more than a year qualify as felonies. Blake was convicted of using and carrying a firearm during and relation to, and possession of a firearm in furtherance of, a drug trafficking crime, in violation of 18 U.S.C. 924(c)(1)(A)(iii). His offense did not depend on a prior felony conviction, as it would have under 924(e). A review of his Presentence Report shows that his sentence was not

enhanced on the basis of prior felony convictions. He received an upward departure sentence of 300 months on the government's motion, based on the facts of the offense and relevant conduct. Simmons would not have changed Blake's conviction or sentence because neither depended on the existence of a prior felony conviction.

THEREFORE, defendant's Motion to Reduce Sentence is **DENIED**.

AND IT IS SO ORDERED.



David C. Norton
United States District Judge

April 30, 2013
Charleston, South Carolina